

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
ANGEL HERNANDEZ, : ORDER
Plaintiff, : 18 Civ. 9035 (JPO) (GWG)
-v.- :
THE OFFICE OF THE COMMISSIONER OF :
BASEBALL, et al., :
Defendants. :
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GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

The Court is in receipt of defendants' letter of April 24, 2020, seeking to compel the production of a document that plaintiff claims is subject to work product and attorney-client privilege. Docket # 136 at 1.

The Court's pre-motion conference requirement is waived. The briefing schedule shall be in accordance with paragraph 2.B of the Court's Individual Practices.

Given that defendants do not bear the burden of proof on this motion, instead of filing a notice of motion and brief, the defendants may elect to have their letter constitute their initial submission. If the defendants choose this option, they should inform the Court of this fact in a letter filed on ECF that includes the briefing schedule as contemplated by paragraph 2.B.

The plaintiff is reminded that he has the burden of sustaining any claims of attorney-client and/or work product privilege, and that such burden normally can be met only through the submission of affidavits that detail the factual circumstances supporting the claim of privilege. This may include the need to submit affidavits that detail the circumstances of each purportedly privileged communication or category of communication, including the roles of all relevant individuals participating in the communications. It may also include the need to submit affidavits regarding the absence of waiver.

The parties are reminded that their memoranda of law must comply with paragraph 2.D of the Court's Individual Practices.

Finally, inasmuch as plaintiff has the burden on this motion, he has leave to file a surreply if new arguments are raised in defendants' reply papers.

SO ORDERED.

Dated: April 27, 2020
New York, New York



GABRIEL W. GORENSTEIN
United States Magistrate Judge